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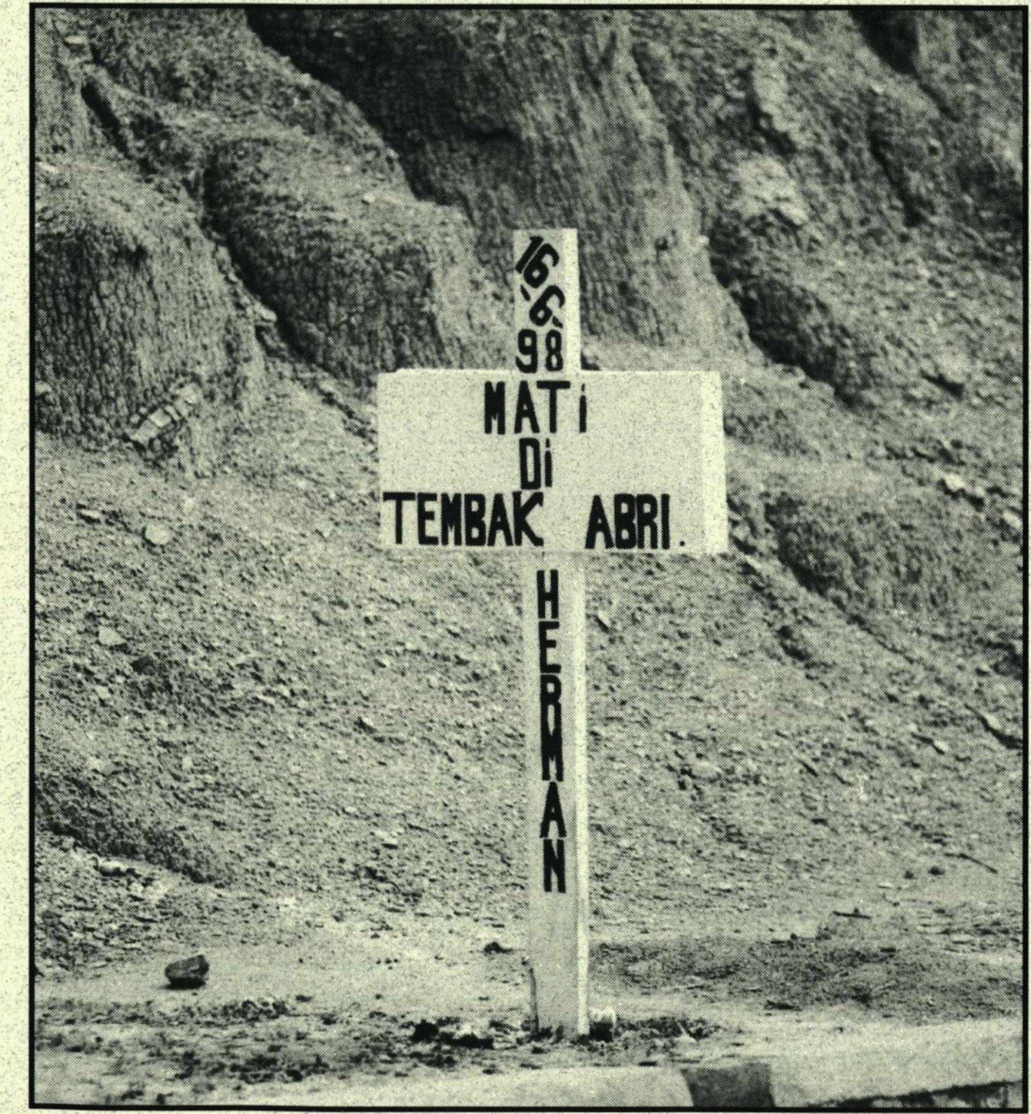
East Timor Human Rights Centre

East Timor: No Solution Without Respect for Human Rights



16-6-98 – shot dead by ABRI – Herman

Bi-Annual Report of Human Rights Violations in East Timor
January to June, 1998

August 18, 1998 Ref: SR1/98

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East Timor: No Solution Without Respect for Human Rights

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Front Cover: Memorial to Herman das Dores Soares,
Shot dead by ABRI, 16 June 1998

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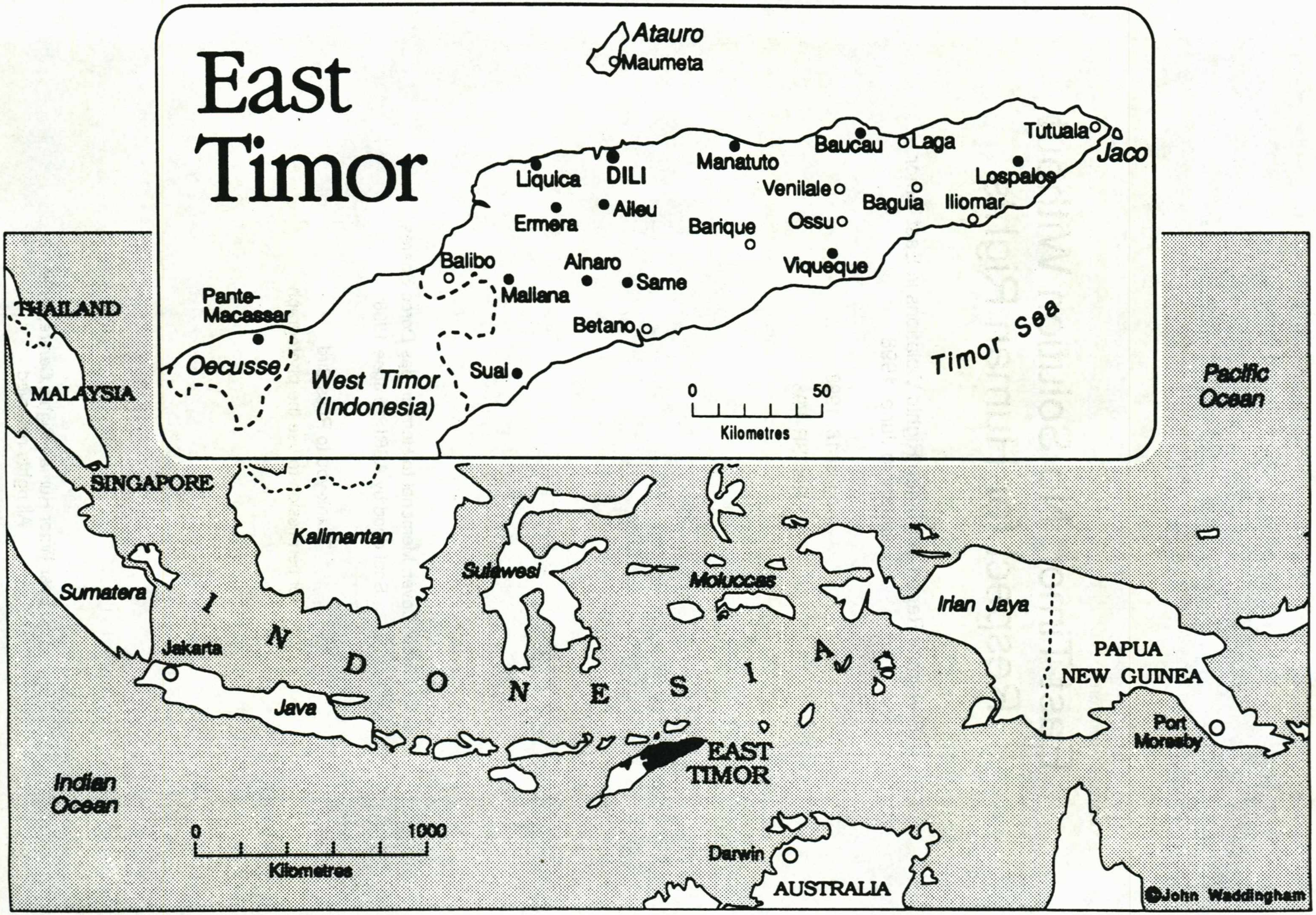
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Jakarta
Java
PAPUA NEW GUINEA
Port Moresby
Pacific Ocean
EAST TIMOR
Indian Ocean
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1000
Kilometres
Darwin
AUSTRALIA
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EXECUTIVE SUMMARY

The first half of 1998 saw dramatic changes take place in Indonesia. Under the pressure of the deepening economic crisis, President Soeharto resigned on 21 May after 32 years of rule and Yusuf Habibie was sworn in as the new President. The East Timorese people quickly saw the changes in Indonesia as creating new opportunities in their search for a solution to the question of East Timor's political status, and hope for an end to the serious human rights violations that have plagued the territory for 23 years.

The new President has shown early enthusiasm for reform, reflected in some positive developments for East Timor which have been welcomed by the East Timor Human Rights Centre (ETHRC). In particular, the ETHRC welcomes the release of 29 East Timorese political prisoners and the greater freedom of speech which is evident in the territory. The withdrawal of 1,000 Indonesian troops was celebrated by Indonesia with great fanfare and welcomed internationally, but many commentators have questioned whether the withdrawal represents a genuine reduction in troops, underscoring the need for international verification of the withdrawal process.

Some progress has been made at the latest round of the Tripartite Talks between Indonesia and Portugal under UN auspices, creating hope that a solution on the future of East Timor may be possible. Indonesia and Portugal agreed to hold in-depth discussions on Indonesia's proposal for a special status, based on a wide-ranging autonomy for East Timor, without prejudice to their basic positions of principle. This agreement is welcomed by the ETHRC, although the option of "special status" should not be seen as a final solution on the political status of East Timor but only a transitional arrangement, with the final solution to be determined by the East Timorese people in a UN-supervised referendum.

The ETHRC believes the dialogue will only move forward if Xanana Gusmão is released to enable him to participate in the discussions for a solution. Immediate confidence-building measures will also be required to address the serious human rights violations continuing in the territory, most importantly, the release of all East Timorese political prisoners, a substantial reduction (preferably under UN supervision) of the Indonesian military presence in the territory, continued efforts to improve respect for freedoms of speech and association, and access to East Timor for international human rights organisations. More wide-ranging political and legal reforms will also be required to address the structures in the Indonesian system which make human rights violations possible.

The period January to June 1998 saw a continuation of the patterns of human rights violations that have persisted in East Timor during the 23 years of occupation by the Indonesian military. During this period, the ETHRC received reports of the extrajudicial execution of 23 East Timorese people, 107 East Timorese people being arbitrarily detained, 95 being subjected to torture and 74 to other forms of ill-treatment. The Centre also received reports of 20 disappearances, 11 breaches of procedural guarantees, 4 women being raped and numerous restrictions on freedom of expression and association.

This report documents these violations, for the period January to June 1998, and proposes concrete steps which can be taken by the government of Indonesia and the international community to improve the human rights situation in East Timor, and to move towards a lasting and internationally acceptable solution to the conflict. Such a solution will only be possible if it is based on respect for human rights, and if it is reached by consultation with the East Timorese people.

A. INTRODUCTION

> *"The solution of the problem must be in the framework of the United Nations and a just and free process where the East Timorese people can choose their destiny."* [1]
>
> \- Xanana Gusmão
> June 1998

1. Hope for East Timor in the Post-Soeharto Era

President Soeharto resigned on 21 May 1998 after more than three decades of autocratic rule in Indonesia, a rule which was characterised by continuing violations of human rights. In East Timor, after 23 years of Indonesian occupation and human rights violations, the change of leadership in Jakarta and the promises of reform which have followed have given the East Timorese people real hope that a solution to the conflict may at last be found. Since the 1975 invasion of East Timor by Indonesia, the people of East Timor have experienced the very worst that the Indonesian regime has had to offer. At least 200,000 East Timorese people have died as a consequence of Indonesia's occupation and other human rights violations including arbitrary detention, torture and ill-treatment, "disappearances" and unfair trials have been commonplace. In the context of these violations, and in the face of the continuing transmigration of Indonesians into the territory, the growing economic marginalisation of the East Timorese and the suppression of their culture, it is not surprising that the Indonesian regime has failed to win the hearts and minds of the East Timorese people.

The new president, Yusuf Habibie, has shown early enthusiasm for political reform and human rights, resulting in some positive advances for East Timor. Most notable are the greater freedom of expression being tolerated by Indonesian security forces in the territory and the release of some East Timorese political prisoners. These developments are welcomed by the East Timor Human Rights Centre (ETHRC).

Fifteen East Timorese prisoners were released on 10 June after President Habibie signed a presidential decree ordering their release. The group included six people who were given an amnesty and another nine against whom all charges were withdrawn. Earlier, on 4 June, four East Timorese students on trial in Semarang, Indonesia, were given a not-guilty verdict and released. The verdict was welcomed as concerns had been raised that their trials were unfair and that they had been subjected to torture. A further ten East Timorese people who were facing charges were released on 13 June when Indonesian authorities in East Timor dropped all charges.[2] Suggestions that more East Timorese political prisoners will be released have not yet been followed through.[3]

In East Timor, the Indonesian military has allowed demonstrations and public forums to take place mostly without incident and foreign journalists have been given greater access to the territory. The new freedom has seen East Timorese people openly expressing their wishes for a future free East Timor – a remarkable departure from the pattern of the last 23 years during which political dissent has not been tolerated. However, the bold exercise of this new-found freedom, particularly by the East Timorese youth, has not been without repercussions. Tension remains high and some East Timorese people have been killed and others arbitrarily detained and tortured in the month of June. There are widespread intimidation and pressure tactics on the part of the Indonesian military, intended to discourage the youth from expressing their views.

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[1] CNN, 20 June 1998.

[2] For full details of prisoners who have been released, see report by the East Timor Human Rights Centre, East Timorese Political Prisoners, SPR 1/98, Melbourne, 23 June 1998.

[3] Agence France Presse, 6 August, 1998, reported that Justice Minister Muladi announced another 75 to 100 political prisoners will be released and that some of them might be East Timorese.

On 28 July, the withdrawal of 400 Indonesian troops from East Timor was celebrated by the Indonesian authorities with great fanfare. One hundred journalists were flown in to Dili especially for the one-hour ceremony marking the occasion. A further 600 troops were withdrawn on 8 August, completing Indonesia's commitment to withdraw 1,000 combat troops. While the international community has welcomed the troop withdrawals, many commentators have questioned whether the withdrawals represent a genuine reduction in the Indonesian military presence in East Timor. Then, shortly after the first troops were withdrawn, the Indonesian government announced that it had sent 263 army health personnel and riot police to the territory, although it said the new troops would not engage in combat or intelligence operations.[4] This claim is impossible to verify. On the contrary, it has been well-documented that territorial troops and members of the police force do, in fact, engage in these activities.

Taur Mata Ruak, commander of the armed East Timorese resistance (Falintil) said the Indonesian troop withdrawal was probably a publicity stunt and called for UN supervision of future withdrawals.[5] The local community was also cynical about the withdrawal, noting that troops are regularly moved in and out of East Timor and that, overall, troop numbers remain high. According to official (Indonesian) estimates there are still 11,000 Indonesian troops in East Timor, but some commentators estimate that the troop numbers could be much higher, possibly as high as 30,000. The ETHRC believes that without independent verification of the withdrawal process, claims that the military presence in East Timor is being reduced should be treated with caution. Independent verification can only be provided through UN or other independent monitoring of troop withdrawals.

Some progress has been made at the latest round of the Tripartite talks between Indonesia and Portugal under UN auspices, which took place from 4 to 5 August. Indonesia and Portugal agreed to hold "in-depth discussions on Indonesia's proposal for a special status, based on a wide-ranging autonomy for East Timor, without prejudice to their basic positions of principle."[6] Prior to the talks, President Habibie had offered to give East Timor "special status" and to release Xanana Gusmão, leader of the East Timorese Resistance, but the offer was conditional upon East Timor agreeing to accept integration with Indonesia – a pre-condition unacceptable to the vast majority of East Timorese people. It is hoped the more flexible approach taken by the government of Indonesia to hold further discussions without this pre-condition will enable the discussions to move forward.

Agreement was also reached at the talks to include the East Timorese more closely in the search for a solution and Indonesia expressed its intention to further gradually reduce the military presence in

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[4] Associated Press, 6 August 1998.

[5] Lusa, 4 August 1998.

[6] UN communiqué, New York, 5 August, 1998.

East Timor and to expedite the release of East Timorese political prisoners.[7] It was agreed that the UN Secretary-General, Kofi Annan, would intensify consultations with East Timorese representatives inside and outside East Timor. In this regard, Annan has already called on Indonesia to release Xanana Gusmão, the jailed leader of the East Timorese resistance, to enable him to participate in the dialogue. The East Timorese people and the international community have repeatedly called for Xanana Gusmão to be released and it is difficult for Indonesia to continue to ignore these calls without appearing to undermine the talks and calling into question its commitment to finding a solution.

José Ramos-Horta, joint winner of the 1996 Nobel Peace Prize, has welcomed the progress made at the latest round of talks but has indicated he will not participate in discussions with the government of Indonesia unless Xanana Gusmão is released to take part in all discussions about East Timor's future. In his statement before the UN Decolonisation Committee, José Ramos-Horta said:

> *"it is regrettable that the Indonesian authorities still refuse to engage our leader, Xanana Gusmão, in dialogue. There cannot be peace, stability and a lasting resolution of East Timor without the leadership of the Resistance being involved in the dialogue."* [8]

The international community has been vocal in its support for the greater freedom in East Timor and the progress being made towards a resolution of the conflict but continues to press Indonesia to implement further confidence-building measures. On 10 July, the U.S. Senate unanimously passed a resolution supporting a political solution on the status of East Timor through an internationally supported referendum on self-determination. The resolution also calls on the Indonesian government to enact political reforms, release political prisoners, and protect human rights.[9] The European Union has also showed strong support for the calls for reform. In late June, following a visit to the territory by a troika of European Ambassadors, the EU called for the immediate release of Xanana Gusmão and other political prisoners, for Indonesia to immediately reduce the number of troops in East Timor in a visible way, and for consultation with the East Timorese people on the future of East Timor:

> *"it is our impression that there will be no lasting solution in East Timor without a firm commitment to some form of direct consultation."* [10]

Some commentators have been more cautious about developments under President Habibie. While welcoming the outcome of the tripartite talks as an opportunity for the East Timorese, James Dunn expressed some reservations:

> *"The Habibie proposal appears to be less about reform than the response of a government vulnerable to domestic and international pressures, not to speak of the lingering resentment of the East Timorese themselves... Jakarta's strategy so far, it seems, has been to sideline a serious diplomatic problem, while keeping concessions to the victims to a minimum. Thus most of its concessions, such as withdrawal of 1,000 of*

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[7] Ibid.

[8] United Nations Special Committee of 24, New York, 30 June 1998, statement by José Ramos-Horta.

[9] Senate Resolution 237, 105th Congress, 2nd session, 22 May 1998.

[10] European Union Heads of Mission Troika Visit to East Timor, 27-30 June 1998: Conclusions, 23 July 1998.

> *its 12,000 strong Timor force, amount to little, representing a change of tactics rather than a change of heart."* [11]

The ETHRC certainly shares these reservations, but the progress made in the tripartite talks does, at least, create an opportunity for the East Timorese, the first real opportunity the East Timorese have had in 23 years. The ETHRC therefore welcomes the agreement reached to pursue discussions about some form of "special status" for East Timor. However, the so-called "special status" or "autonomy" should not be seen as a final solution on the question of the political status of East Timor but only a transitional arrangement which, it is hoped, would create an atmosphere in which a fair referendum could be conducted in due course. To move the discussions forward, the release of Xanana Gusmão and the withdrawal of Indonesia troops from East Timor will be essential.

More wide-ranging reform will also be required to promote and protect human rights to address the structures in the Indonesian system which make violations in East Timor possible. On 25 June, President Habibie unveiled Indonesia's five-year action plan on human rights, aimed at addressing the need for reform. The plan aims to promote and protect human rights by cultivating and strengthening a human rights culture through its four components: ratification of human rights agreements, dissemination of information and education on human rights, measures to address human rights issues determined as national priorities, and implementation of ratified international human rights agreements.[12] The plan commits Indonesia to ratifying the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment which it has already signed but not ratified, and to ratifying the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Social Economic and Cultural Rights (ICSECR) by the year 2003. At the launch of the plan President Habibie said:

> *"We hope that we can strongly impress the world with our sincere ... will to move forward and protect human rights."* [13]

However, the five-year plan does not include any mention of East Timor, and the lengthy schedule for ratifying the ICCPR and the ICSECR will obviously not provide the immediate confidence-building measures needed in East Timor. In the meantime, more immediate improvements in the human rights situation in East Timor are needed, as progress towards reform, and respect for human rights in the territory, remain limited. Of particular concern is the fact that many East Timorese political prisoners remain in detention. In a recent report[14], the ETHRC provided details of up to 141 political prisoners either convicted or awaiting trial for political reasons.[15] Of even greater concern is the fact that there has not been a noticeable reduction in human rights violations in East Timor, contrary to earlier indications that human rights violations in the territory may have been decreasing.

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[11] The Sunday Age, 9 August 1998.

[12] Reuters, 25 June 1998.

[13] Jakarta Post, 10 June 1998.

[14] East Timor Human Rights Centre, East Timorese Political Prisoners, Ibid.

[15] Some of the prisoners who had been arbitrarily detained have since been released but most of the prisoners named in the ETHRC's report are believed to be still in detention.

2. Overview of Human Rights Violations: January to July 1998

The period January to June 1998 saw a continuation of the patterns of human rights violations that have persisted in East Timor during the 23 years of occupation by the Indonesian military. During this six-month period, the ETHRC received reports of serious violations by Indonesian security force personnel including extrajudicial executions, arbitrary detention, torture and ill-treatment and excessive use of force against civilians. The Centre also received some reports of disappearances, unfair trials, rape, and restrictions on freedom of expression and association. Below are the statistics for violations in the period January to June 1998:

Violations of Civil and Political Rights		
Violations of Right to Life		
Extrajudicial Execution	23	
Attempted Extrajudicial Execution	1	24
Violations of Right to Individual Liberty		
Arbitrary Detention	107	
Enforced Disappearances	20	127
Violations of Right to Integrity and Security of Person		
Torture	95	
Other Cruel, Inhuman or Degrading Treatment	74	
Excessive Use of Force	31	
Rape	4	
Attempted Rape	3	207
Right to Due Process		
Breach of Procedural Guarantees	11	11
Violations of Political Rights		
Freedom of Expression	About 1502	
Freedom of Association	10	About 1512
Other Violations		
Persecution	40	40
	Total	1,921

3. Greater Freedom but Violations Continue

Since the change of leadership in Jakarta, East Timorese people have been openly expressing their wishes for a future free East Timor and the Indonesian military has allowed demonstrations and public forums to take place mostly without incident - a remarkable departure from the pattern of the last 23 years, during which political dissent has not been tolerated but has been met with human rights violations. Initially, East Timorese people were unsure of their new freedom but it has now become clear that their acts of defiance have not been completely without repercussions. Tension remains high and there are widespread intimidation and pressure tactics on the part of the Indonesian military, intended to discourage the youth from expressing their views.

On 6 June, the world was astonished by a public meeting which took place in Dili to discuss the future of East Timor. The forum was attended by approximately 3,000 East Timorese people and the overwhelming message coming out of the forum was a call for self-determination, despite the presence of pro-Indonesian East Timorese. The forum also called for the release of Xanana Gusmão and other political prisoners, the withdrawal of Indonesian troops and deployment of UN peace-keeping forces in their place, and for East Timor's future to be decided by a referendum. This was an historic event at which East Timorese people were able to openly discuss options for the future of East Timor, without the interference of the Indonesian military. The success of the forum led to similar actions throughout June.

On 10 June, approximately 3,000 students held a "free-speech forum" at the University of East Timor (UNTIM) in Dili, calling for a full and free referendum. The demonstration was contained on the University campus because of pleas from Bishop Belo who anticipated a violent response from the military. "Free speech forum" is the term used by the East Timorese students for the pro-independence demonstrations they have been holding throughout East Timor, mostly peacefully and without incident. On 15 June, students held a peaceful rally at the University of East Timor (UNTIM) and on the same day a delegation of thirty students met with parliamentary leader Armindo Mariano Soares to deliver their demands. On 20 June, approximately 2,000 East Timorese students marched from UNTIM to the regional legislative building where they meet with officials and demanded a referendum to determine East Timor's future. On the same day, East Timorese prisoners at Becora prison broke through the doors and held a demonstration in the forecourt of the prison, demanding self-determination and the release of Xanana Gusmão. They only agreed to return to the prison after lengthy negotiations with the authorities.

Other protests resulted in violence, however, very often because of excessive force used by Indonesian military personnel. On 12 June, approximately 1,500 East Timorese students staged a peaceful demonstration at the Indonesian Foreign Ministry in Jakarta. The demonstration was met with a violent response from Indonesian security force personnel who broke up the demonstration. Indonesian soldiers and police armed with guns, rattan sticks and riot shields violently removed the protesters from the site and transported them to the Cibubur military camp outside Jakarta. They were detained for questioning and allowed to leave the following day. It is believed at least fourteen people were injured including three women who were hospitalised for treatment. (See case 3.3.1 for details).

On 16 June, an East Timorese youth, **Herman das Dores Soares**, was arbitrarily killed in Manatuto by Indonesian security personnel who suspected him and his cousin of stealing wood. An Indonesian military investigation into the killing found that the Indonesian soldier, Agus Medi, had used unnecessary force, and the Indonesian military took the extraordinary step of apologising for the killing. Agus Medi of the Indonesian Territorial Battalion 315 was later tried at a military tribunal and found guilty of murder and sentenced to 10 years imprisonment. (See case 1.1.8 below for details). In response to Herman's death, thousands participated in protests over the following days. On 17 June, 3000 East Timorese marched through the streets of Dili to the office of Governor Abilio Soares and there was little military presence at the protest. Then on 18 June, in an increased show of force, approximately 10,000 marched through the streets of Dili in the peaceful funeral procession for the victim and there was no violence by the military. The rally continued on to the military headquarters and later to the local Parliament building.

On 27 June, 21-year-old **Manuel Marques Soares** was shot dead when the military shot indiscriminately into a crowd to quell a clash between pro-independence and pro-Indonesian groups in Manatuto. Another six East Timorese were injured, some with gunshot wounds. (See case 3.3.2 for details). The killing sparked a protest march by up to 10,000 East Timorese through the streets of Dili. Again, there were clashes with the military who used excessive force against the crowd and some injuries were reported. (See case 3.3.3 for details). Two days later, during the visit of the European Union Troika of Ambassadors, violence erupted in Baucau, resulting in the death of **Orlando Marcelino da Costa** who was shot dead when Indonesian security personnel fired into a crowd of people. Another seven civilians were seriously injured. (See case 3.3.4 for details).

That these tragic events occurred shortly after President Habibie came to power in Indonesia highlights the fact that despite the new President's gestures towards improving human rights in East Timor, the human rights situation remains fundamentally unchanged.

4. Towards a Solution Based on Respect for Human Rights

If East Timor is to move towards peace, all attempts to find a solution to the conflict must take place in the context of a comprehensive programme to promote and protect human rights. As this report illustrates, there is no solution without respect for human rights. Initially, this means there must be immediate measures taken to build confidence in the peace process and to improve the human rights situation in the territory. After 23 years of serious human rights violations, significant measures will be required, including the release of Xanana Gusmão and all other East Timorese political prisoners, and a substantial reduction in the Indonesian military presence, preferably with UN supervision of the troop withdrawals. The ETHRC believes most of the Indonesian troops currently stationed in East Timor should be withdrawn. José Ramos-Horta has suggested that:

> "*troops should be withdrawn to the level in East Timor in 1974 which never exceeded 1000. Indonesia's remaining troops should be confined to their barracks and the East Timorese Resistance fighters should observe a cease-fire.*"[16]

Despite the apparent greater freedom of speech in East Timor, there are still many restrictions placed on East Timorese people expressing their views. On 25 July, President Habibie issued a new presidential decree limiting when and where demonstrations can be held. Police permission is required three days ahead of street demonstrations of more than fifty people.[17] The new law has been widely criticised as being obviously contrary to Habibie's promises for political reform and the ETHRC has recommended the immediate repeal of this repressive law. East Timorese people should be free to express their views without fear of harassment, arbitrary detention and torture.

Greater international scrutiny of the situation in the territory is also required. While access to East Timor for journalists has improved, access for international human rights organisations is still not allowed. There is no permanent UN presence in East Timor, while visits by representatives of the UN are infrequent and depend on the cooperation of the Indonesian government. Access to East Timor for international human rights organisations, including the ETHRC, should be allowed and actively encouraged. Options for a permanent UN presence in East Timor could also be explored, in the context of the Tripartite Talks, which will continue later in the year.

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[16] United Nations Special Committee of 24, New York, 30 June 1998, statement by José Ramos-Horta.

[17] Reuters, 25 July 1998.

The government of Indonesia should also show its willingness to cooperate with the UN Commission on Human Rights (UNCHR) and its mechanisms, in particular by implementing the recommendations made by UN experts[18] and the High Commissioner on Human Rights[19] following their visits to East Timor. These recommendations have mostly not been implemented. The government of Indonesia has also largely ignored the recommendations contained in the various resolutions adopted by the UNCHR[20] and failed to implement specific commitments made to the UNCHR, as contained in statements by the Chair of the Commission.[21] The government of Indonesia should, as a matter of priority, implement it commitments to invite the Working Group on Arbitrary Detention[22] and the Special Rapporteur on Torture[23] to visit East Timor. The visits should take place in 1998 to enable them to report to the UNCHR in March 1999.

More wide-ranging reforms will also be required to promote and protect human rights and to address the structures in the Indonesian system which make violations in East Timor possible. These structures were highlighted by Amnesty International for the UN Decolonization Committee:

> *"Prominent among the structures which facilitate the violations of human rights is a judiciary which lacks independence both in law and practice, legislation which allows for the arrest and imprisonment of prisoners of conscience; protections for detainees and defendants under the criminal procedure law which are in some cases inadequate and in others ignored; the lack of an independent body with either the powers or resources to carry out prompt, thorough and impartial investigations into reports of human rights violations; and the absence of systems which guarantee that the security forces are held accountable for their actions."* [24]

While East Timor remains under the tight control of Indonesia, and while the Indonesian military presence in East Timor remains high, the recommendations made by Amnesty International for reform would go a long way towards promoting and protecting human rights in East Timor. In particular, there is the need for urgent legislative and judicial reform and for an end to the impunity enjoyed by the perpetrators of violations in East Timor. The lack of an independent judicial system combined with the use of repressive and archaic laws, has enabled the Indonesian government to effectively suppress dissent and imprison East Timorese people opposed to Indonesian rule in East Timor. The ETHRC has recommended that the government of Indonesia repeal all repressive laws, regulations and decrees, used to suppress the peaceful and legitimate expression of dissent.

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[18] Report of the Special Rapporteur on Torture on his visit to Indonesia and East Timor, E/CN.4/1992/17/Add.1, 8 January 1992. Report of the Special Rapporteur on Extrajudicial and Summary or Arbitrary Executions on his visit to Indonesia and East Timor, E/CN.4/1995/61/Add.1, 1 November 1994.

[19] Report of the High Commissioner on Human Rights on his visit to Indonesia and East Timor in December 1995, E/CN.4/1996/12, 14 March 1996.

[20] Resolutions were adopted in 1993 and 1997: resolution 1993/97 (E/1993/23-E/CN.4/1993/122); resolution 1997/63 (E/1997/23-E/CN.4/1993/150).

[21] Statements by the Chair were negotiated in 1994, 1995, 1996 and 1998.

[22] Pursuant to the 1998 Statement by the Chair.

[23] Pursuant to resolution 1997/63.

[24] Amnesty International, East Timor: The Moment for a Comprehensive Human Rights Programme, Statement before the United Nations Special Committee on Decolonization, 30 June 1998.

The ETHRC believes a solution to the conflict in East Timor will only be possible if it is based on respect for human rights. Immediate measures are required to build confidence in the peace process and to reduce the human rights violations which are continuing in the territory. The ETHRC has recommended the immediate and unconditional release of Xanana Gusmão and other political prisoners, a substantial reduction (preferably under UN supervision) of the Indonesian military presence in the territory, continued efforts to improve respect for freedoms of speech and association, and access for international human rights organisations. More wide-ranging reforms will also be required to address the structures in the Indonesian system which make human rights violations possible.

Throughout the process it is absolutely fundamental that the wishes of the East Timorese people are considered. Discussions about East Timor's future, including the question of East Timor's status, will only arrive at a lasting and internationally acceptable solution if the East Timorese people are consulted. This means engaging the recognised East Timorese leaders, including Xanana Gusmão, in dialogue but ultimately, it means direct consultation with the East Timorese people through a fair and free referendum.

B. RECOMMENDATIONS

1. Recommendations to the Indonesian Government

Immediate confidence-building measures

The ETHRC urges the government of Indonesia to take the following steps immediately in order to demonstrate its commitment to reducing violations and bringing about peace in East Timor:

1. Immediately and unconditionally release Xanana Gusmão to enable him, as President of the CNRT (National Council of Timorese Resistance), to participate in the dialogue for a peaceful settlement to the East Timor conflict.

2. Immediately and unconditionally release all East Timorese prisoners of conscience, detained or convicted solely for the non-violent expression of their views, and any other East Timorese prisoners, detained or convicted for political reasons.

3. Reduce the numbers of Indonesian troops in East Timor to the absolute minimum required, ensuring that there is UN or other independent monitoring of the withdrawals to enable validation of the withdrawal process.

4. Stop the practice of arbitrarily arresting individuals for their non-violent political activities and ensure that all East Timorese people have the right to freedom of expression and association, without fear of harassment, arbitrary arrest, imprisonment, torture and ill-treatment.

5. Issue strict orders to members of the security forces to abide by international standards on the appropriate use of force, particularly firearms, and ensure that those who breach these standards face criminal charges for their actions.

6. Immediately cease the practice of using military forces to arrest and interrogate suspects, as these are functions of the police under Indonesia's Criminal Procedure Code (KUHAP).

7. Put an end to the practices of arbitrary and incommunicado detention of individuals. Immediately release all those in detention who have not been charged with a recognisable offence under Indonesian law and ensure that detainees have prompt access to lawyers of their own choice.

8. Establish a central register of all detainees in East Timor and require all members of the military and police to report the names of detainees immediately so that family members can be notified of the detention.

9. Ensure that all East Timorese in police or military custody are treated humanely and in accordance with international standards.

10. Ensure that all trials in East Timor are conducted in accordance with international standards.

11. Clarify immediately the whereabouts of all people documented as "disappeared" in this report.

12. Conduct full and impartial investigations of the violations documented in this report, in particular reports of extrajudicial executions and torture by members of the Indonesian military. The perpetrators should be prosecuted to the fullest extent of the law and if found guilty, given sentences which reflect the seriousness of the crimes.

13. Allow local human rights monitors to undertake their work unhindered and without harassment.

14. Allow regular and unhindered access to East Timor for international human rights organisations, including the ETHRC, for the purpose of human rights monitoring.

Continuing Dialogue

15. Fully consult the East Timorese people about options for a solution to the East Timor conflict. Allow and encourage representatives of the East Timorese Resistance, including Xanana Gusmão, to participate in the Tripartite Talks taking place under UN auspices, and in the All-inclusive Intra-East Timorese Dialogue (AIETD), also under UN auspices.

16. Encourage the governments of Indonesia and Portugal to adopt, in the Tripartite Talks, meaningful confidence-building measures for monitoring, protecting and promoting human rights in East Timor. Encourage the rigorous discussion of such options in the AIETD.

17. Explore in good faith, with the Office of the UN High Commissioner for Human Rights and through the Tripartite Talks under UN auspices, other possibilities for protecting and promoting human rights in East Timor, including options for deploying UN human rights presence on the ground in the future.

Co-operation with the United Nations

18. Invite the Working Group on Arbitrary Detention to visit East Timor, in accordance with commitment undertaken at the 1998 UN Commission on Human Rights (UNCHR). The visit, which will enable an impartial investigation of allegations of arbitrary detention, should take place before the end of 1998 to enable the working group to prepare a report in time for the 1999 session of the UNCHR.

19. Invite the Special Rapporteur on torture to visit East Timor, also in 1998, to comply with the recommendation contained in the 1997 resolution of the UN Commission on Human Rights.

20. Ratify the following international conventions at the earliest possible opportunity:
    - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), in accordance with commitments undertaken at the UNCHR in 1998;
    - The International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols; and
    - The International Covenant on Economic, Social and Cultural Rights (ICESCR)

Legislative reform

21. Repeal all repressive laws, regulations and decrees, used to suppress the peaceful and legitimate expression of dissent, including:
    - The Anti-Subversion law;
    - The "hate-sowing" articles and the "insulting the President" and "incitement to violence" articles contained in the Indonesian Criminal Code (KUHP); and
    - The decree recently enacted by President Habibie to restrict the conduct of demonstrations.

22. Prohibit explicitly under the Indonesian Criminal Code (KUHP) all forms of torture and other cruel, inhuman or degrading treatment or punishment. Ensure that these offences are punishable by penalties which reflect the seriousness of the crimes.

23. Remove the judiciary from the control of the Ministry of Justice, strengthen the powers of the Supreme Court and establish a judiciary which is truly independent and impartial.

2. Recommendations to the International Community

1. Express its concern over persistent human rights violations in East Timor, including arbitrary detentions, torture and ill-treatment, extrajudicial executions, disappearances, restrictions on freedom of expression and association and unfair trials.

2. Provide material and diplomatic support for the efforts of local human rights NGOs to protect and promote human rights on the ground in East Timor.

3. Encourage the Indonesian government to release all East Timorese prisoners detained solely for their political activities, including CNRT President Xanana Gusmão, as a sign of its commitment to reaching a just and internationally acceptable settlement to the East Timor conflict through dialogue with the East Timorese people.

4. Encourage the government of Indonesia to reduce the numbers of Indonesian troops in East Timor to the absolute minimum required, and to allow UN or other independent monitoring of the withdrawals for verification purposes.

5. Encourage the governments of Indonesia and Portugal to fully consult the East Timorese people about options for a solution to the East Timor conflict. Support calls for recognised representatives of the East Timorese Resistance, including Xanana Gusmão, to be invited to participate in the Tripartite Talks taking place under UN auspices, and in the All-inclusive Intra-East Timorese Dialogue, also under UN auspices.

6. Encourage the governments of Indonesia and Portugal to adopt, in the Tripartite Talks under UN auspices, meaningful confidence-building measures for monitoring, protecting and promoting the human rights of the East Timorese people. Support efforts by the All-inclusive Intra-East Timorese Dialogue to consider and propose similar confidence-building measures in the field of human rights.

7. Support efforts by the Office of the UN High Commissioner for Human Rights or other bodies, to explore how the UN could contribute to the search for peace by deploying an effective on-site human rights presence inside East Timor.

C. HUMAN RIGHTS VIOLATIONS

Even with the greater freedom East Timor is experiencing, and the gestures of good will offered by President Habibie, serious and systematic violations are continuing. The patterns of violations are the same as those that have persisted for the 23 years East Timor has been under Indonesian military occupation. In the period January to June 1998, East Timorese people were subjected to extrajudicial execution, arbitrary detention, torture and ill-treatment, enforced disappearance, rape and unfair trials as well as facing restrictions of freedom of expression and association. These are clear violations of the fundamental rights enshrined in the Universal Declaration of Human Rights, which the government of Indonesia has endorsed through its membership of the United Nations. They also constitute violations under the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Although these instruments have not been ratified by the government of Indonesia, they represent the widely accepted standards within the international community.

1. Violations of Right to Life

1.1 Extrajudicial Execution

During the period covered by this report, the ETHRC received 24 reports of violations of the right to life perpetrated against East Timorese people, of which 23 were extrajudicial executions and one was an attempted extrajudicial execution. It is believed Indonesian security force personnel are responsible for all of the extrajudicial executions and yet, for the vast majority of the cases, the government of Indonesia has undertaken no investigations and the perpetrators have not been brought to trial or punished. In one case, the execution of Herman das Dores Soares, an investigation was conducted and the perpetrator convicted and this action was welcomed by the ETHRC. However, the ETHRC remains concerned that members of the Indonesian security forces enjoy almost complete impunity for serious violations such as these, which are routinely perpetrated against East Timorese people.

Case 1.1.1

On 4 January, 1998, a combined team of the Rajawali battalion, BTT (territorial battalion), SGI (Special Intelligence Unit) and Halilintar (East Timorese recruited into the Indonesian military), led by João Tavares, ex-Administrator of Bobonaro district, shot dead four East Timorese men near the Nunura-Bebai river in Coilima, Atabae sub-district, Bobonaro. The bodies of **Valentino Bere Mau**, 24, **Simao Dau Mau** 26, **Lorenco Sorato**, 24, and **José Aru Biti**, 26, were discovered by villagers several days later, floating in the river. The families of the four men were threatened by the military not to attend their burials.

It is believed the four men had been accused of having links with Lourenco Lacu-Leto and Afonco da Cruz who were suspected by the military of being double agents. They were also suspected of involvement in the murder of a member of Halilintar. According to an ETHRC source, the four had been abducted by a group of unidentified armed men from the house of Afonco da Cruz, where they had gathered for a party. Before being killed, the four men were subjected to torture, including having their arms and legs broken. Other villagers were terrorized, injured and arrested during the incident. (See case 2.1.1 for details). The Indonesian National Commission on Human Rights (Komnas HAM) is believed to have undertaken an investigation of the killings but the outcome is not known.[25]

Case 1.1.2

On 5 February, **Duarte Guterres**, 48, was shot dead by members of the Rajawali battalion near the Mau-Gua mountain, located in the sub-district of Venilale, Baucau. Guterres' body was discovered two days later by some local youths, 20 metres from the Rajawali base. It is believed on the day of his death, Duarte and a friend had gone to check on their livestock when they encountered Rajawali forces who demanded that they show their ID cards. When Guterres failed to present an ID card, the military accused him of being a Falintil guerrilla and began to beat and torture him. The official reason for the killing, according to the Rajawali forces, was that Duarte Guterres was shot trying to escape capture. Three days after the killing, the Rajawali forces moved camp.

Case 1.1.3

At about 9.00pm on 14 April, a pregnant East Timorese woman and her two children were killed in an assault on their home in Samala hamlet, Wailili village, Baucau, by the Indonesian military. It is believed that assault took place because of information extracted from another East Timorese man who had been detained and interrogated. (See case 2.1.6 for details). During the assault, members of Kopassus, and the Rajawali and BTT (territorial) battalions surrounded the house and began shooting indiscriminately, injuring Salustiano Freitas, and killing his pregnant wife **Maria da Costa**, and two of their children **Guirbonio Freitas,** aged 8, and **Domingos Freitas,** aged 6. Salustiano Freitas was taken into custody after the attack and detained at Kopassus headquarters (Rumah Merah) in Baucau where he was subjected to torture. Freitas has since been released, however he remains under house arrest.

Case 1.1.4

On 7 May, **Costodio da Silva Nunes**, 46, was walking through his village of Baviquinia, in the sub-district of Maubara, Liquica, when he was spotted by members of Battalion 621, who ordered him to stop. Fearing for his safety, Nunes is believed to have ignored the order and tried to run away. Battalion 621 personnel then reported the incident to members of KORAMIL (sub-district military command) who were nearby at Lissalara hamlet, in the village of Gugleur.[26] It is believed these members of KORAMIL caught up with Nunes and shot him dead. Nunes was reportedly buried at Gugleur village, near the Telecom office. His family and friends were not permitted to attend the burial. Prior to his death, it is believed he had been persecuted by the Indonesian military as he was suspected of involvement in the East Timorese clandestine resistance.

Case 1.1.5

On 10 May, Carlos da Silva, 28 and Carlos da Costa, 30 were shot during an assault by three members of Kopassus, identified as Budi, Pedro and Ernesto (Team Saka), on a house in the village of Bucoli, Baucau. The assault on the Bucoli house is believed to have been related to information extracted from Armando da Silva during interrogation. (See case 3.1.5 for details). It is believed **Carlos da Silva** died from injuries sustained and was buried by the military near the complex of Command Sector A without the presence of his family. Another man, Carlos da Costa, disappeared and there are fears that he may also have been killed.

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[25] Despite repeated requests, Komnas HAM has not provided any information about the investigation to the ETHRC.

[26] ETHRC UA 4/98, 13 May 1998.

Case 1.1.6

On 22 May, another military assault on an East Timorese home also resulted in one extrajudicial execution and several arbitrary arrests. At about 5.00am on 22 May, members of a combined team from Kopassus, Rajawali and Team Saka, under the command of Sergeant Joanico, assaulted a house in Seisal village, Baucau district, looking for a group of East Timorese who were suspected of hiding military materials for the guerillas. During the assault, **Cosme da Silva Ximenes**, 27, was shot dead. His body was buried without the presence of family members at Wainiki, near Baucau, by members of Team Saka. Others were arrested and tortured as a result of the incident and one man was seriously injured. (See case 3.1.8 for details).

Case 1.1.7

On 24 May, **Carlos Pinto**, 23, was killed by members of the Rajawali battalion in the Lospalos district. On the day of his death, Carlos Pinto, together with his brother, Antonio Pinto, and five other unidentified East Timorese people, were hunting in the Sabunasafai forest in the Lospalos district when they were approached by Rajawali forces who asked to see their ID cards. Even though the seven East Timorese people presented their ID cards, the military accused them of having contact with Falintil and began to open fire on them. They immediately began to run away but Carlos Pinto was shot dead while attempting to flee the soldiers. His family was unable to recover his body for burial and believes the Indonesian military buried the body at a secret location.

Case 1.1.8

On 16 June, **Herman das Dores Soares**, 21, from Mascarenhas village in west Dili, was shot by a member of the Indonesian military in the village of Obrato, Manatuto district, while he and his cousin, **Olandino Soares**, 19, were collecting wood from the road. They were suspected of stealing the wood which apparently belonged to the military. Herman das Dores Soares was shot six times without warning in the leg and chest as he tried to get back into the car. He was bleeding heavily and had to be taken by his cousin on public transport to the Manatuto health centre as nearby Indonesian soldiers did not offer to assist. The health centre did not have the equipment and personnel to treat him and it was decided to transfer him to a hospital in Dili. Herman died from excessive bleeding en route to the hospital. His body was taken to his family in Dili and on 18 May, his coffin was carried to the Santa Cruz cemetery to be buried, amid a mass demonstration by 10,000 East Timorese people who were protesting the killing.[27] Olandino Soares sustained injuries.

The Indonesian military conducted an investigation into the killing and found that the Indonesian soldier had used unnecessary force, given that the two men were only suspected of stealing wood. Colonel Mujiono, Deputy Chief of the East Timor Military Command said: "Our people were at fault. There was no reason for shots to be fired".[28] The soldier, Agus Medi, of the BTT (territorial battalion) 315, was tried by a military tribunal. He was found guilty of the murder and sentenced to 10 years imprisonment.

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[27] ETHRC UA 10/98, 25 June 1998.

[28] South China Morning Post, 19 June, 1998.

Case 1.1.9

On 27 June 1998, **Manuel Marques Soares** was shot dead by unidentified Indonesian security force personnel as he sat in front of his house in the village of Aitais, Manatuto. Members of Team Alfa, Team Saka, Team Makikit and the Rajawali battalion had opened fire into a nearby crowd in order to quell a clash between pro-integration and pro-independence protesters. At least six others were injured during the incident. (See case 3.3.2 for details). The killing again led to angry protest demonstrations which involved further clashes with military personnel. (See case 3.3.3 for details).

Case 1.1.10

On 29 June, **Orlando Marcelino da Costa,** 35, was shot and killed by SGI (Indonesian Intelligence Unit), during a visit to Baucau by a delegation of European Union Ambassadors. Pro-independence protesters had gathered outside the cathedral in Baucau to welcome the European visitors. According to an eye-witness, the crowd cheered when they saw two vans carrying the European delegation but when a car appeared carrying several security officers armed with automatic weapons, the crowd became angry at the presence of armed military personnel and began to beat and kick the car. It is believed security officers inside the car fired shots into the crowd of people surrounding the car, killing Orlando Marcelino da Costa and seriously wounding seven others. (See case 3.3.4 for details).

Other cases reported to the ETHRC

The ETHRC received reports of 8 other East Timorese people being extrajudicially executed. See Appendix B for details of cases 1.1.11 to 1.1.15.

2. Violations of the Right to Individual Liberty

During the period covered by this report, the ETHRC received 127 reports of violations of the rights to individual liberty against East Timorese people, including 107 East Timorese people who were arbitrarily detained and 20 who disappeared. Again, the vast majority of allegations have not been investigated and the perpetrators have not been brought to trial or punished. This again highlights the fact that members of the Indonesian security forces enjoy almost complete impunity for violations perpetrated against East Timorese people.

2.1 Arbitrary Detention

As the statistics indicate, arbitrary detention is a frequent practice is East Timor. The detentions documented here were arbitrary by accepted international standards but Indonesian authorities also failed to comply with standards under their own legal system. Suspects were invariably arrested without warrants,[29] they were often arrested by the military or civilian militia, rather than by police as required under Indonesian law[30] and they were not charged and brought to trial within the proper time required by law.

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[29] Suspects must be served with a written warrant of arrest, unless they are caught 'in flagrante delicto', and their relatives must be furnished with a copy (Indonesian Criminal Code of Procedure, KUHAP Article 18). Arrests are valid

Case 2.1.1

On 4 January, following the execution of 4 East Timorese people in the Nunara-Bebai river in Coilima, Atabae sub-district, Bobonaro (see case 1.1.1 for details), members of the military began to terrorize the villagers of the area. Several villagers, **Fernando**, 22, **Marcelo**, 32, **Afonso da Cruz**, 29, **Justino**, 17, **Francisco Bere Lelo**, 20 **Alexandrino David, Marcelino Leto**,27, **João Goncalves**, 25, **Manuel Leikele**, 26 and **Florindo Leto Dasi**, 29, were injured and arbitrarily detained at the SGI post at Cailaco. They were suspected of supporting Falintil. It is believed the detainees, including those who were injured, were subjected to torture during interrogation. Another thirteen people from the village of Coilima also disappeared. (See case 2.2.1 for details).

Case 2.1.2

On 6 March, **Rui Campus** was arrested from his home along with two men, later identified by ETHRC sources as **João** and **Modesto**. João and Modesto were subsequently released but Rui Campus was subjected to continuing arbitrary detention. It was reported that the reason for the arrest was a dispute in Trisula hamlet, Asalainu village, Lospalos, but it is believed the real reason for the arrest was that Campus was suspected of having links with the clandestine movement and supporting Falintil. Rui Campus was originally detained at the Baucau headquarters of the Special Forces Command (Kopassus) and later transferred to POLRES (Police Resort) in Lospalos It is believed he is now detained at a Baucau Detention Centre. Rui Campus has not been served with an arrest warrant or detention order and has been denied access to legal representation since his arrest in March.

Case 2.1.3

On 21 March, **Albertino da Costa, Gil Fernandes**, and **Mario Ximenes dos Reis** were arrested and detained at POLRES (Police Resort) in Dili. They were suspected of organising clandestine activities relating to Brigada Negra (Black Brigade). They were transferred to Dili's Becora prison but were released on 13 June 1998 when all charges were dropped due to insufficient evidence.

Case 2.1.4

Amnesty International reported that **Jose da Costa Soares**, 39, **Agostinho Goncalves**, 22, and **Gil Ximenes**, 22, were arrested in March and arbitrarily detained.[31] Jose da Costa Soares was arrested on 20 March from his home in Comoro, Dili, after police raided his house searching for Agostinho Goncalves, a University of East Timor (UNTIM) student. Agostinho Goncalves and Gil Ximenes, also a UNTIM student, were both arrested on 21 March. The three men were all being held arbitrarily at POLRES (Police Resort) in Dili. Jose da Costa Soares was later released but Agostinho Goncalves and Gil Ximenes were subjected to continuing arbitrary detention by the

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for a maximum of 24 hours, after which the authorities must produce an arrest warrant or release the suspect (KUHAP Article 19).

[30] Sole responsibility for arrest, detention and investigation in criminal cases rests with the police (KUHAP Article 18).

[31] Amnesty International, Urgent Actions ASA Index 21/27/98 dated 24 March 1998 and ASA Index 21/32/98 dated 7 April 1998.

police and were also tortured and ill-treated. They received beatings and electric shock. No further information is available.

Case 2.1.5

On or about 27 March, **Justo Bernardino**, 40, was arrested in a house at the village of Iralafai in the district of Lospalos, by members of Kopassus (Special Forces Command). It is believed Bernardino, a Falintil Commander, was hiding at the house to receive medical attention for an illness. He continued to experience illness in detention and on 4 April, was taken to Dili for medical treatment, returning to Lospalos the same day. Bernardino was arbitrarily detained at the Kopassus headquarters in Lospalos where he underwent interrogation and probably torture, although this is unconfirmed. It is believed Indonesian authorities denied permission for his family to visit him.[32] ETHRC sources have now confirmed that Bernardino is no longer in detention.[33]

Case 2.1.6

On 8 April, **Domingos Oliveira**, 26, was arrested by members of Kopassus (Special Forces Command), Rajawali forces and the police. While in detention, Oliveira was subjected to serious torture, beatings and ill-treatment during interrogation and forced to disclose the identity of six other East Timorese men who were alleged to be members of the clandestine resistance. Based on the information extracted, the six men, **José da Costa**, 24, **Alberto da Costa**, 24, **Lucio de Jesus**, 23, **Paulo da Costa Soares, Martins Belo** and **Salustiano Freitas**, 25, were subsequently arrested between 14 and 16 April. Salustiano Freitas was arrrested in an assault on his home during which his pregnant wife and two children were killed. (See case 1.1.3 for details). Salustiano Freitas was detained at Kopassus headquarters (Rumah Merah) in Baucau where he was subjected to torture. Freitas has since been released, however he remains under house arrest. Oliveira and the remaining five men detained by Indonesian authorities are still in detention charged under Article 1 of the Emergency Law No.12/1951 and are awaiting trial.[34]

Other cases reported to the ETHRC

The ETHRC received reports of 56 other East Timorese people being arbitrarily detained. Many of these people were tortured in detention. See Appendix B for details of cases 2.1.7 to 3.1.32.

2.2 Enforced disappearances

The Centre also received reports of 20 East Timorese who disappeared at the hands of Indonesian security personnel. Unfortunately, many of the disappearance cases which were reported to the ETHRC were incomplete and it is not known whether those reported as disappeared have now been located. Lack of access to the territory for human rights organisations means that it is very difficult to obtain follow-up information about progress of cases. People reported as "disappeared" have often been arbitrarily detained at unknown locations and the vast majority of these people are released in due course. However, those that are never located are likely to have been killed. One such case is Carlos da Costa who disappeared on 10 May and is still missing, feared dead.

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[32] ETHRC UA 1/98, 14 April 1998 & ETHRC UA 1/98 PR, 27 May 1998.

[33] ETHRC UA 1/98 PR2, 3 August 1998.

[34] ETHRC UA 6/98, 20 May 1998 & ETHRC UA 6/98 PR, 5 May 1998.

Case 2.2.1

On 4 January, following the execution of 4 East Timorese people in the Nunara-Bebai river in Coilima, Atabae sub-district, Bobonaro. (See case 1.1.1 for details), members of the military began to terrorize the villagers of the area. Ten villagers were arbitrarily detained and tortured (see case 2.1.1 for details) and another thirteen people from the village of Coilima were believed to have disappeared. The thirteen were: **Fernando Laka, Manuel Piedade, Candido Soares, Eugenio Goncalves, Francisco Goncalves, Duarte Mau Soko, Jorge Tavares, Augusto da Cruz, Cipriano Nunes, Marcelo Tavares, Ozorio Maupelo, Americo Tavares** and **Quintiliano da Cruz**. No further information is available about whether the thirteen people are still missing but an ETHRC source reported that at one point the families of the missing people were threatened by the military to discontinue their search for them.

Case 2.2.2

On 10 May, Carlos da Costa, 30, and Carlos da Silva, 28, were shot during an assault by three members of Kopassus, identified as Budi, Pedro and Ernesto (Team Saka), on a house in the village of Bucoli, Baucau. The assault on the Bucoli house is believed to have been related to information extracted from Armando da Silva during interrogation. (See case 3.1.6 for details). It is believed Carlos da Silva died. (See case 1.1.5 for details). Initially it was thought **Carlos da Costa** was also killed but more recent reports from ETHRC sources state that following the incident, Carlos da Costa disappeared and that he is still missing. The ETHRC holds grave fears that he may have been killed, or if he is still alive, that he is at grave risk of torture and ill-treatment.

Other cases reported to the ETHRC

The ETHRC received reports of 4 other East Timorese people who were reported as disappeared. It is not known whether these people are still missing, but the ETHRC is continuing to investigate. See Appendix B for details of cases 2.2.3 to 2.2.5.

3. Violations of the Right to Integrity and Security of Person

Torture and other cruel, inhuman or degrading treatment, excessive use of force by security personnel and rape are serious violations of the rights to physical and psychological integrity of the person. In East Timor, there is, of course, a cycle of almost complete impunity for the perpetrators of these violations, as allegations are generally not investigated by the Indonesian authorities and perpetrators are not brought to justice.

3. Torture

The ETHRC continued to receive reports of East Timorese people being subjected to torture and other cruel, inhuman or degrading treatment, usually in order to obtain information. These violations generally occurred in Indonesian detention centres, but there are also some cases of people being tortured or ill-treated at the time of their arrest, and others being tortured in their homes or in forest areas.

The fact that East Timorese people are tortured so frequently and systematically in Indonesian detention centres makes it clear that Indonesian authorities have failed to meet accepted international standards in respect of treatment of prisoners in detention, to which Indonesia has subscribed.[35]

In the period January to June, at least 95 East Timorese were subjected to torture and ill-treatment at the hands of security forces, both in East Timor and in Indonesia. Most of the torture cases documented below occurred while the victims were arbitrarily detained in police or military custody. Others, who were tortured have been charged under the Indonesian Criminal Code (KUHP), faced breaches of their right to due process.

Case 3.1.1

On 9 February, fourteen East Timorese were arrested by security personnel from Rajawali, POLRES Lautem and Kodim Lautem. It is believed they were suspected of destroying shops in Lospalos. They were arbitrarily detained at the POLRES and during their detention they were subjected to torture by the security personnel. The fourteen were identified as: **Paulino Soares**, 30, **Angelo Ximenes**, 27, **Joaquim Diaz**, 26, **Quelmento dos Santos**, 25, **Adolfo dos Sntos**, 26, **Olivio**, 23, **Abilio Viana**, 23, **Alisio** (no surname), 24, **Sabilio Ximenes**, 22, **Duarte Fonseca**, 24, **Alberto Viana**, 25, **Joanito Ximenes**, 24, **Tito de Jesus**, 27, and **Julio Goncalves**, 24.

Case 3.1.2

On 25 February, **Ines Amaral** and **Bernardo Soares** were arrested together with five other East Timorese people at a military check-point in Viqueque. It is believed Ines Amaral was suspected of carrying ammunition in a sack of rice, intended for Falintil and Bernardo Soares was suspected of being her assistant. While in detention at POLRES (the district police) in Viqueque, they were both were subjected to torture and ill-treatment and denied access to their families. Both were charged with possession of ammunition under Emergency Law No.12/1951 for illegal possession of weapons and transferred to Kaisahe prison in Baucau pending their trials.[36] Amaral has now been tried and sentenced to six months imprisonment but Soares is still in detention, awaiting trial, raising concerns that he has been denied due process. He has been detained for almost six months and the ETHRC believes he has not been brought to trial within a reasonable time. The five other detainees, **José Mariano da C., Adriana de Almeida, Jermias Soares, Francisco Joaquim B.** and **Fernando Soares P.**, were arbitrarily detained but later released due to lack of evidence.

Case 3.1.3

In late February, three East Timorese students, **João Soares Reis, Floriano da Costa Xavier** and **Bernardo da Silva** were arrested by members of Kopassus (Special Forces Command) and the Indonesian police. They were taken to POLRES (Police Resort) before being transferred to Becora prison in Dili. The detainees were accused of holding clandestine resistance meetings and of making contact with Falintil. While in detention at POLRES, all three men were subjected to torture and beatings. They were also denied access to their families and to legal representation, however, access has been allowed following their transfer to Becora prison.[37] It has now been confirmed that the three students were charged under the Emergency Law No.12/1951 and Articles 108 and 110 of the Indonesian Criminal Code in relation to the alleged manufacture and possession of molotov cocktails. However the ETHRC believes that the allegations are unfounded and that the men have been detained solely for political reasons.

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[35] Indonesia has subscribed to the *United Nations Standard Minimum Rules for the Treatment of Prisoners* which provides detailed guidelines in relation to punishment within the prison system. The key provision of the Rules are: "Section 30(2): No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case." "Section 31: Corporal punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."

[36] ETHRC UA 8/98, 1 June 1998.

Case 3.1.4

On the 7 March, **Salvador dos Reis Ornai** from the village of Builale, south of Baucau, was travelling to work when he was intercepted by members of the BTT (territorial) and Rajawali battalions and two East Timorese informants, Mario Pinto from the village of Uaguia and Francisco das Ruas from the village of Ossu de Cima. Despite identifying himself, Salvador dos Reis Ornai was arbitrarily detained and subjected to torture. He was so seriously injured he was unconscious and was then released into the care of his family.

Case 3.1.5

At 4.00am on 2 April, members of SGI (Special Intelligence Unit) and the police assaulted a house in Hudi-Laran (a suburb of Dili) and arrested eight East Timorese men who were believed to have gathered for a clandestine resistance meeting. During the assault, one East Timorese man, **Carlos Goncalves**, 40, was shot in the leg. The eight men were taken to POLRES (Police Resort) headquarters in Dili for interrogation. Six of them, **Marcal Amaral Magno Guterres**, 26, **Basilio Mendonca**, 24, **Elias de Araujo**, 21, **João de Jesus**, 28, **Bernardo dos Santos**, 23, and **Alfredo Amaral**, 29, were subjected to torture while being interrogated at POLRES. They were then transferred to Becora prison and were awaiting trial when authorities decided to drop all charges against them. They were released on 13 June. No information is available about the other two men, **Manuel Sarmento** and **Antonio Freitas**, but it is assumed they have also been released. It appears the eight men were targeted solely for their political activities and their right to freedom of association was denied.[38]

Case 3.1.6

On or about 10 May, members of Kopassus (Special Forces Command) in Baucau arrested **Armando da Silva** and took him to KODIM 1628 (District Military Command) in Baucau where he was held in incommunicado detention. Sources have confirmed that Armando da Silva was released after being subjected to torture during interrogation.[39] It is believed Armando da Silva was forced to disclose the identity of people allegedly involved in the East Timorese Clandestine Resistance, resulting in the 10 May military assault on a house in the village of Bucoli, Baucau. During the assault, one East Timorese man was killed an another disappeared and another two were seriously injured. (See cases 1.1.5 and 3.2.1 for details).

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[37] ETHRC UA 7/98, 27 May 1998.

[38] ETHRC UA 2/98, 11 May 1998 & ETHRC UA 2/98 PR, 14 July 1998.

[39] ETHRC UA 7/98, 27 May 1998 & ETHRC UA 7/98 PR, 15 July 1998.

Case 3.1.7

On 12 May, **Antonio da Costa,** 47, and his brother **Mauricio da Costa,** 27, were arrested in the village of Wainiki, Baucau. It is believed the arrest occurred at 5.00am while Antonio and Mauricio were selling bread on the street. It is believed a dark "hartop" car, owned by the military, suddenly pulled up beside them and the four unidentified occupants of the car threatened the two brothers with knives. They forced the two brothers into the car and took them to Kopassus (Special Forces Command) headquarters in Baucau (the "Rumah Merah") which is reputed to be a torture centre of the Indonesian military. The two men were held in arbitrary detention for a week and released on 19 May. It is believed that during detention Antonio and Mauricio da Costa had their hands burned and were given electric shock. As a result of the torture, Antonio da Costa is experiencing difficulties with movement in his body. Both men continue to suffer from trauma due to their experience.[40]

Case 3.1.8

On 22 May, four East Timorese people were arrested and tortured following a raid on a house in the village of Seisal, Baucau, during which one man, Cosme da Silva Ximenes, was shot dead. (See case 1.1.6 for details). It is believed **Francisco** (no surname), 25, from Letemumu village was seriously injured and had to be hospitalised. **Zelia Correia**, 29, and **Luis Correia**, 32, the owners of the house, were beaten up and threatened at gunpoint, then taken to the office of the Commander of Sector A for interrogation. They have since returned home. Two other East Timorese, **Adilson da Costa Correia**, 26, **Domingos Moreira**, both from Mulia village, were also taken into custody. At the time of their arrest, Adilson and Domingos were beaten and tortured until they bled from the nose and mouth. They were then detained at Kopassus headquarters in Baucau where they were again subjected to torture. Adilson subsequently was released but it is believed Domingos Moreira may still be held in incommunicado detention at the Rumah Merah.

Other cases reported to the ETHRC

The ETHRC also received reports of another 39 East Timorese people being tortured. Most of them were also arbitrarily detained. See Appendix B, cases 3.1.9 to 3.1.33 for details.

3.2 Other Cruel, inhuman or degrading treatment

Case 3.2.1

On 10 May, three East Timorese men were seriously injured during a military assault on a house in the village of Bucoli, Baucau. Another man was killed during the assault and a fifth man disappeared. (See case 1.1.5 above for details). The assault on the Bucoli house is believed to have been related to information extracted from Armando da Silva during interrogation. (See case 3.1.6 for details). The injured men, **Manuel Sarmento, Graciano da Silva** and **Manuel da Silva** were taken to the Wirahusada Military Hospital in Dili. Manuel da Silva and Graciano da Silva were later released but Manuel Sarmento was taken into custody at POLRES where he is still detained, although it is believed no charges have been brought against him. He is accused of supporting Falintil and possession of ammunition and weapons.

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[40] ETHRC UA 5/98, 19 May 1998 & ETHRC UA 5/98 PR, 10 July 1998.

Case 3.2.2

At 2.00pm on 2 June, around 83 prisoners at Becora prison in Dili were reported to have suffered food poisoning. It is believed the affected prisoners called for help but were ignored by prison authorities. One prisoner, **Domingos da Silva,** was reportedly vomiting blood. It was only at 6.15pm that night that 32 prisoners were finally taken to the local public hospital (RSUD) for treatment. There were reports that two prisoners died, however this remains unconfirmed. It is believed Indonesian authorities ordered 27 prisoners be sent back to prison even though some of them had not fully recovered and still required further treatment. Reports said that some prisoners who refused to return to prison were threatened at gunpoint by the military to comply. It is believed they were beaten, kicked at and pushed into waiting cars and taken back to the prison. Members of the Indonesian military even pulled oxygen masks off some of the sleeping patients and forced them to return to prison. Several prisoners later returned to hospital as they were still vomiting and some were even unconscious. One of them was **Daniel** (no surname), who had had his oxygen mask pulled off, and another prisoner, **Luis Antonio Soares**, had to return to hospital twice. The reason for the food poisoning remains unclear but Indonesian officials claim the food poisoning was caused by the consumption of rotten fish during lunch-time. East Timorese resistance sources claim the Indonesian authorities deliberately poisoned the food, but these allegations remain unsubstantiated.

Other cases reported to the ETHRC

The ETHRC also received reports of another 7 East Timorese people being subjected to cruel, inhuman or degrading treatment. See Appendix B, cases 3.2.3 to 3.2.7 for details.

3.3 Excessive Use of Force

In the first half of the year, the Indonesian military used excessive force in some situations, especially during the month of June in response to some of the protests occurring in Dili. There have also been several cases of East Timorese people being killed, injured and arrested during military assaults on houses, aimed at targeting people suspected of involvement in the clandestine resistance. In total, the ETHRC received reports of 31 East Timorese people who were injured as a result of excessive use of force.

Case 3.3.1

On 12 June, approximately 1,500 East Timorese students conducted a peaceful demonstration while occupying the Indonesian Foreign Ministry in Jakarta. The students called for a referendum, the release of East Timorese political prisoners and the implementation of UN recommendations on human rights in East Timor. During the protest, up to 1,000[41] Indonesian soldiers and police from Kopassus, Kostrad and the military police, armed with guns, rattan sticks and riot shields, violently removed the protesters from the site. Some demonstrators threw bottles, rocks and shoes at the troops but they were beaten by the soldiers and police with rattan sticks, and herded onto fifteen military buses waiting outside. They were taken to Cibubur military camp just outside Jakarta where they were detained for questioning. They were allowed to leave the following day. Many demonstrators were beaten and there were reports that some students had been stabbed with bayonets. A spokesperson for the ICRC said at least fourteen people had been injured when security forces broke up the demonstration,[42] including three women who were taken to St Carolus Hospital for treatment. **Maria Fatima,** 24, was vomiting blood and her nose was bleeding, **Aghostinha Fonseca**, 22, and **Helena**, 23, were both experiencing difficulties in breathing.

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[41] **According to Agence France Presse, 12 June 1998, but the exact number of troops involved is unconfirmed.**

Case 3.3.2

On 27 June, during a clash between pro-integration and pro-independence protesters in the village of Aitais, Manatuto, six people were injured when members of Team Alfa, Team Saka, Team Makikit and Rajawali forces opened fire on the crowd in order to quell the clash. **Francisco Antonio Soares**, 15, and **Luis Joaquim**, 52, **Luis de Carvalho Soares**, 18 and **Manuel Martins**, 23, all sustained serious gunshot wounds. Antonio Soares and Luis Joaquim were taken to Toko Baru hospital in Dili and were in a serious condition in intensive care. One ETHRC source reported that Antonio Soares was still in a coma, but no further information about his condition is available.[43] **Candido de C. Soares**, 19, and **Bernardo Jesus do Rego**, 18, were also shot, but not seriously injured. Manuel Marques Soares was shot dead when he was hit by a stray bullet as he sat in front of his house. (See case 1.1.9 above for details).

Case 3.3.3

Also on 27 June, four Dili men, **Domingos da Silva**, 24, and **Inacio da Costa Ribeiro**, 23, both from Kuluhun, **Marcal Soares**, 26, from Comoro, and **Francisco da Costa**, 25, from Audian in Santa Cruz, were injured while participating in a demonstration to protest against the killing of Manuel Marques Soares by the Indonesian military. (See case 1.1.9 for details.) The 10,000 strong crowd was carrying the dead body of Manuel Marques Soares through the streets of Dili when clashes with the military broke out. The four men were tortured and stabbed with bayonets by members of the Indonesian military.

Case 3.3.4

On 29 June, it is believed Indonesian security force personnel used excessive force against a crowd of pro-independence demonstrators who had gathered at the Baucau cathedral to welcome a visiting delegation of European Union ambassadors. According to an eye-witness, the crowd cheered when they saw two vans carrying the European delegation but when a car appeared carrying several security officers armed with automatic weapons, the crowd began to beat and kick the car. It is believed security officers inside the car fired shots into the crowd of people surrounding the car, killing Orlando Marcelino da Costa (see case 1.1.10 for details) and injuring seven others. Those injured were: **Cesaltino da Costa,** 19, **Cesarino José da Costa,** 39, **Aldemiro Correia**, 30, **Dirce Elizabeth do Rosario**, 15, **Maria Imaculada do Correia**, 17, **Adelson Ximenes Correia**, 19, and **João da Costa Ximenes**, 20.

3.4 Rape and attempted rape

The ETHRC also received reports of 4 East Timorese women being raped by members of the Indonesian military and 3 cases of attempted rape. Rape is actually believed to be much more widespread than the small number of cases documented would indicate. This is because information about rape is particularly difficult to obtain as East Timorese women are reluctant to speak about their experiences of being raped. Despite this difficulty, the ETHRC did receive some reports of rape and attempted rape.

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[42] Associated Press, 13 June 1998.

[43] ETHRC UA 11/98, 1 July 1998.

Case 3.4.1

At 11am on 1 May, an East Timorese woman, **Rosita Gomes Pereira**, was raped in her home in the hamlet of Darnei in the village of Poetete, Ermera district, by members of the Indonesian military. She was standing with her two month-old baby in her arms when the Indonesian soldiers approached her. One soldier held her from behind while another soldier lifted her skirt and proceeded to rape her. She made unsuccessful attempts to flee with her baby. It is believed the rape occurred while Mrs Pereira's husband, Domingos da Costa, was in the fields farming. It is believed the soldiers responsible were from the Lulirema military post, located at the village of Coliate in Hatolia, Ermera district.[44] Mrs Pereira made an official report about the incident to the local Catholic Church and to the ICRC (International Committee of the Red Cross).

Case 3.4.2

On June 1998, **Jacinta Soares**, 16, was raped by Sergeant II Restu, the local Babinsa , military head of Laline village, RT I/RK IV, Lacluta Sub-District. The perpetrator had targeted another woman who used to be a sex slave but because she was pregnant, Restu asked her to find another woman. The pregnant woman contacted Jacinta and invited her to her house. Jacinta was then assaulted by Restu when she arrived at the house and raped, despite her protests.

Other cases reported to the ETHRC

The ETHRC also received reports of another 2 East Timorese women being raped and 3 attempted rapes. See Appendix B, cases 3.4.3 to 3.4.5.

3. Violations of the Right to Due Process

East Timorese defendants are routinely denied their right to due process, both in pre-trial and trial proceedings, under the Indonesian legal system. Often, trials also fall far short of accepted international standards for fairness. The right to due process presupposes the existence of a set of minimum guarantees such as access to the courts and to legal representation, the opportunity to plead and produce evidence before the courts, and the right to receive sentences from the court within a reasonable period of time. While some procedural guarantees are provided under the Indonesian Criminal Procedure Code (KUHAP), these are often inadequate or are ignored by the Indonesian authorities. Moreover, fundamental rights such as the presumption of innocence, and the right to a hearing by a competent, independent and impartial tribunal within a reasonable period of time, are not guaranteed.

The ETHRC received some reports of violations of the right to due process in the period January to

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[44] ETHRC UA 9/98, 24 June 1998.

June 1998. Particularly prevalent was the lack of adequate access to legal representation,[45] and cases of confessions being extracted under duress of torture.[46]

4.1 Breaches of procedural guarantees

Case 4.1.1

On 1 June the Semarang State Court in Indonesia handed down a not-guilty verdict in the trial of four East Timorese students, **Domingos Natalino**, 20, **Joaquim Santana**, 23, **Fernao Pedro Malta Correia Lebre**, 20, and **Ivo Miranda Branco**. The four students had been charged with possession of explosives and foreknowledge of a conspiracy to commit criminal acts under Emergency Law No.12/1951 but were found not-guilty due to lack of evidence. The ETHRC has welcomed the not-guilty verdict, given that the trial did not meet international standards for fairness. The proceedings breached procedural guarantees provided under the Indonesian Criminal Procedure Code (KUHAP), both in the pre-trial proceedings and in the trial itself.

At the time of arrest on 14 September 1997, the defendants were not shown a warrant for their arrest and after they were taken to and held at the Central Java Police Headquarters in Semarang, no arrest warrant or notification of detention was sent to the defendants' respective relatives.[47] In addition, according to the defendants' relatives, their visits the defendants were severely hampered by members of the Central Java police.

During the investigation process, the four defendants were repeatedly subject to torture while under interrogation at the Semarang police headquarters, and were forced to sign prepared statements under duress of torture.[48] The four were beaten, subjected to electric shock, ordered to bite on burning cigarette butts, had their eyes sprayed with Baygon insecticide, and their faces scrubbed with a toilet brush. The accused were forced to admit to the charges brought against them and to sign the investigation procedure report which had been prepared beforehand by their interrogators. Among the security officers who are alleged to have committed these crimes are Sergeant Major Gigih Cahyono, Second Lieutenant Bambang S, Captain Nur Suhud of the Semarang police, a number of other police, and members of army intelligence.

The defendants' right to adequate legal representation was denied during the pre-trial and trial proceedings. The defendants were either completely denied effective legal aid, or when legal aid was available, the legal representatives' ability to carry out their role was obstructed.[49] During the pre-trial proceedings, at the request of the police, the defendants signed a letter authorising three local lawyers to act as their counsel. They were Saksono Yudiantoro, Supardi Sukamto and Agus Suhartoyo. These lawyers failed to attend the proceedings throughout the duration of the investigation conducted at the Semarang police headquarters. In addition, the lawyers' signatures appeared on the pre-prepared investigation procedure report which the defendants were forced to sign. Moreover, the alleged collusion of the lawyers in the police falsification of the investigation results is clearly antithetical to the ethics of legal practice.

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[45] Suspects have the right to consult with and be accompanied by legal counsel of their own choice at all stages of interrogation (KUHAP Articles 54,55,57). Detainees have the right to ongoing access to their lawyers throughout the trial process (KUHAP Articles 54,56). Legal counsel should be free to meet and speak in confidence with their clients (KUHAP Articles 70, 71).

[46] Duress in any form may not be used by investigating officials to obtain information from a suspect or witness. (KUHAP Article 117).

[47] Breach of KUHAP Articles 18 and 19. Suspects must be served with a written warrant of arrest, unless they are caught 'in flagrante delicto', and their relatives must be furnished with a copy (Article 18). Arrests are valid for a maximum of 24 hours, after which the authorities must produce an arrest warrant or release the suspect (Article 19).

[48] Breach of KUHAP Article 117.

[49] Breaches KUHAP Articles 54, 55, 56, 57, 70, 71 which guarantee adequate legal representation.

After 12 January 1998, the defendants annulled the authorisation given to the lawyers mentioned above. From then on, the defendants were represented by members of the Indonesian Legal Aid Association (PBHI). However, during the court proceedings the defendants' rights to proper legal representation continued to be restricted. First, their access to proper representation was curtailed by the court as limitations were placed on the time allowed the PBHI lawyers to prepare the defence case. Second, the defence counsel's ability to exercise the right to free and confidential communication with the defendants was also impeded by the court.

The defendants' right to bring and examine witnesses for the defence was effectively denied. The defence counsels' request to bring two key witnesses from Dili were not met by the court. While the board of judges had agreed in principal to bringing Constancio Pinto and Paulo George Pereira from Dili to testify, this decision was not followed through. Concerns over security and lack of funds for their transportation were cited as the reasons for this omission.[50] Furthermore, the independence of the board of judges was compromised, as evidenced by the fact that their decision to bring the witnesses before the court could not be carried out.

Case 4.1.2

Three East Timorese students, **João Soares Reis, Floriano da Costa Xavier** and **Bernardo da Silva** are still in detention following their arrest in late February by members of Kopassus (Special Forces Command) and the police. The students were taken to POLRES (Police Resort) before being transferred to Becora prison in Dili. They have been accused of holding clandestine resistance meetings and of making contact with the armed East Timorese resistance. All three men were subjected to torture and beatings while in detention at POLRES. It has now been confirmed that the three men were charged in relation to the alleged manufacture and possession of molotov cocktails but the ETHRC believes the allegations are unfounded and that the men have been detained solely for political reasons. They were charged under the Emergency Law No.12/1951 and Articles 108 and 110 of the Indonesian Criminal Code and are awaiting trial. They were initially denied access to their families and legal representation while in detention at POLRES, however, since their transfer to Becora prison they have been allowed visits from family members and their legal counsel.[51]

5. Violations of Freedom of Expression and Association

Examples of violations of freedom of expression are plentiful, despite recent improvements in East Timor. Many of the arbitrary detentions documented above occurred in response to what would be seen as legitimate expressions of political dissent under international norms. There have also been cases of violations of the rights to freedom of association with East Timorese people being targeted for associating with particular political organisations, summoned for questioning and otherwise intimidated by the authorities.

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[50] Breach of KUHAP Articles 240 and 253.

[51] ETHRC UA 7/98, 27 May 1998.

Case 5.1

On 20 April, **Manuel Carrascalão** and **Francisco Carvalho**, two leaders of the Movement for Reconciliation and Unity of the East Timorese People (Gerakan Rekonsiliasi dan Persatuan Rakyat Timor Timur or GRPRTT), were subjected to continuous interrogation for four days. Indonesian authorities confiscated symbols of the movement, office equipment and documents belonging to the organisation. Both men were being investigated for "sowing hatred against the government."[52]

Carrascalão, President of the organisation, and other GRPRTT members, have been harassed since the movement was established in October 1997. GRPRTT was formed by East Timorese leaders who were disillusioned by the level of human rights violations perpetrated by the Indonesian security forces in East Timor and the lack of participation by the East Timorese in government. The aim of the organisation is to mobilise the people of East Timor to resolve the conflict through peaceful dialogue and the organisation have been quite vocal in expressing its views. An arrest warrant for Manuel Carrascalão issued in December 1997 had not been carried out, apparently because the authorities were not in agreement about the best course of action to take against the GRPRTT.[53]

On 27 June, during the arrival of the delegation of European ambassadors at Comoro airport in Dili, a group of youths from Gardapaksi (Pro-Integration Youth Action Group) riding motorcycles, approached Manuel Carrascalão's car and vandalised it Other youths approached Carrascalão with knifes, with the intention of trying to stab him. They shouted "destroy his car" and "kill him, kill him." One youth almost managed to stab Carrascalão but injury was avoided when the village head from Comoro village intervened.

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[52] Associated Press, 17 April 1998.

[53] For further details see report by the ETHRC, Breaking the Cycle of Human Rights Violations in East Timor: Annual Report of Human Rights Violations in East Timor 1997, February 17, 1998, Melbourne, Ref: SR 3/97, page 31.

APPENDIX: Table Summarising Others Violations Reported to the ETHRC

Case No.	Name & Age	Address	Date of violations	Location of violation (district)	Perpetrators	Violations	Details
1.1.11	Moises Ximenes, 52	Not known	10/2/98	Covalima	Police from Covalima POLRES	Extrajudicial Execution	Shot dead whilst collecting sap from a tree. Accused of stealing and then of killing a man but it is believed he was suspected of having links with Falintil.
1.1.12	Rogerio da Conceicao, 30 Manuel da Conceicao, 28 Gomes Ribeiro, 25	Leorema village, Bazartete sub-district	23/3/98	Liquica	SGI from Ermera district	Extrajudicial Execution	Killed by members of SGI because they were suspected of hiding guns in their houses for the guerrillas.
1.1.13	Domingos Sarmento Isabel Sarmento	Letemonu hamlet, Quelicai sub-district	28/4/98	Baucau	Rajawali battalion	Extrajudicial Execution	Shot dead by Rajawali forces for no particular reason.
1.1.14	Cipriano Soares, 35	Merdeka hamlet, Comoro village, West Dili sub-district	14/5/98	Dili	SGI (Special Intelligence Unit)	Extrajudicial Execution	Shot dead during the search of a house whose residents were suspected of having a clandestine meeting. The body was not handed over to the family but was taken to Atsabe to be buried.
1.1.15	Januario da Costa Ximenes, 26,	Boleha village, Laga sub-district	3/6/98	Baucau	Lucio da Costa, a member of Baucau KODIM	Extrajudicial Execution	Stabbed eight times by Lucio da Costa from of KODIM and died. Da Costa suspected the victim of having sex with his sister Abelita, allegations which were denied.
2.2.3	Tomas Pinto, 36	Uasse-Laua, Nunura vilage, Laga sub-district	1/1/98	Dili or Baucau	Indonesian military believed to be responsible	Disappearance	Believed to have disappeared while on his way from Dili to Baucau. Probably related to his political activities. Not known if still missing.

2.2.4	Amancio Pereira, 29	Pemukiman Iradarate, Iliomar village II, Iliomar sub-district	Beginning of January 1998	Lospalos	SGI Rajawali battalion Kopassus BTT 642, Team Alfa	Disappearance	Believed to have disappeared after being followed by military personnel. Not known if still missing.
2.2.5	Augusto de Jesus, 22 Adelino (no surname), 27	Comoro village, Dili	9/4/98	Dili	Indonesian military Intelligence	Disappearance	Believed to have disappeared because he was suspected of being a clandestine resistance agent. Not known if still missing.
2.1.6	Jose Belo Pereira, 31 Amancio Belo, 21 Antonio Belo Pereira, 24 Paulo Belo Pereira, 34 Vicente Belo Pereira, 51 Lamberto Belo Pereira, 32	Sale-Gia hamlet, Sagadate village, Laga sub-district	14/2/98	Baucau	Rajawali battalion Team Saka (led by Alexandre and Egidio dos Reis de Ataide) Kodim Baucau	Arbitrary detention	Six brothers arrested when the military raided their home. Suspected of hiding ammunition, materials for manufacturing bombs documents on opposition movements. Not known if still in detention.
2.1.7	Alexandre Mendes, 24 Constancio Xavier, 26	Pairara village, Moro sub-district,	16/2/98	Lautem	Kopassus Koramil Lospalos Polsek Lospalos Team Alfa	Arbitrary detention	Arrested while attending a religious procession.
2.1.8	Marcal Soares Guterres, 25	Caicoli village, Dili	13/3/98	Dili	SGI Police Kompi C Yonif 745	Arbitrary detention	UNTIM student arrested under suspicion of establishing a university students' organization which has been accused of setting fire to the East Timor University campus.
2.1.9	Osorio Sarmento, 25	Gariwai village, Baucau	7/5/98	Baucau	Kopassus	Arbitrary detention	Accused of possessing a photograph of a Falintil guerrilla.
2.1.10	Carlos Assuncao, 50 Joao dos Santos, 39 Carlos Henrique, 30 Baltazar (no surname), 28 Nicolao (no surname), 22 Adelio da Silva, 25 Natercia (no surname), 15	Ekali hamlet, Vatu-Vou village, Maubara sub-dictrict,	26/5/98	Liquica	Rajawali battalion Kodim Liquica	Arbitrary detention	Suspected of organizing clandestine activities and of masterminding the killing of the wife of a member of the Indonesian military.

3.1.9	Celestino de Jesus, 32 Domingos dos Santos, 35	Bobonaro village	9/1/98	Bobonaro	Rajawali battalion	Arbitrary detention Torture	Suspected of carrying medicine and a gun to the Falintil guerrillas.
3.1.10	Juvencio da Silva, 20 Joaquim da Silva, 19	Venilale sub-district	16/1/98	Baucau	Kodim Police Rajawali battalion	Arbitrary detention Torture	Failing to present their ID cards during an investigation of an armed conflict between Rajawali forces and Falintil.
3.1.11	Francisco Marcal, 32,	Maukali hamlet, RT IV, Fatubesi village, Ermera	19/1/98	Ermera	BTT (territorial battalion)	Arbitrary detention Torture	Reason for arrest and torture unknown.
3.1.12	Noel Goncalves, 25 Fernando (no surname), 26 Mariano (no surname), 23	Maliana & Cailaco sub-districts	1/2/98	Bobonaro	Rajawali battalion	Arbitrary detention Torture	Suspected of being agents for Falintil guerrillas, reporting to them on the whereabouts of the Indonesian military.
3.1.13	Clementino Loe Sere Noi Gonsalves Marrindo da Silva Fernando (no surname)	Villages of Meligo, Atudara and Ritabou, Maliana District	1/2/98	Maliana	Indonesian military	Arbitrary detention Torture	Suspected of associating with and supplying Falintil with supplies such as medicines, food and clothes. Unknown if still in detention.
3.1.14	Marcos C. Araujo, 44	Urtali hamlet, Fatubessi village, Ermera	3/2/98	Ermera	BTT (territorial battalion)	Arbitrary detention Torture	Sent letters to the Bishop in Dili, the ICRC and Komnas HAM about human rights violations committed by Indonesian security personnel.
3.1.15	Eusebio Guterres, 53 Manuel Viegas, 32	Uai-Laha village, Venilale sub-district	5/2/98	Baucau	Rajawali battalion	Arbitrary detention Torture	Detained for a couple days at the Rajawali post at Assalaitula in Venilale. Reason not known.
3.1.16	Joao Bosco, 25	Mahinrem, hamlet Fatubessi village	6/2/98	Ermera	12 members of BTT 144 Unit B	Arbitrary detention Torture	Arrested & tortured while picking coffee at his small plantation. Reason for arrest unknown.
3.1.17	Felisberto Guerero Lopes, 26	Teerbuata hamlet RT II/RK I, Bobonaro village	15/2/98	Bobonaro	Koramil, Bobonaro	Arbitrary detention Torture	Detained at the Maliana prison without any legal procedure. Suspected of organizing clandestine activities.

3.1.18	Filomeno (no surname), 25	Lisapat village, Hatolia sub-distr.	17/2/98	Ermera	Rajawali battalion BTT 144	Arbitrary detention Torture	Arrested and tortured without reason.
3.1.19	Domingos (no surname),24 Constancio Madeira, 33 Adelina Madeira, 36 Abel da Costa, 26 Alcina Madeira Soares, 30 Julio Britos, 38	Fatubessi village, Ermera	23/2/98	Ermera	BTT 144, Unit B, Post IV	Arbitrary detention Torture	Suspected of supplying logistics and of supporting Falintil guerrillas.
3.1.20	Luis Mendonca, 45 Adino (no surname), 30	Ailok Laran hamlet, Becora village, Dili	28/2/98	Dili	Police SGI Gadapaksi	Arbitrary detention Torture	Suspected of providing logistical and medical support and information to Falintil guerrillas.
3.1.21	Alberto da Costa, 27 Romaldo dos Santos, 31	Leorema village, Ermera	00/3/98	Dili	BTT (territorial battalion)	Arbitrary detention Torture	Travelled to Dili without the permission from the local BTT.
3.1.22	Antonio Martins, 24 Domingos M (no surname), 25	Ermeta hamlet, Lourba village, Bobonaro	14/3/98	Bobonaro	Rajawali battalion	Arbitrary detention Torture	Suspected of supplying logistics to Falintil guerrillas.
3.1.23	Jaime Freitas, 24	Osu-Gua hamlet, Samalari village, Baucau	15/3/98	Baucau	Kopassus Team Saka Kodim, Baucau	Arbitrary detention Torture	Fought with an Indonesian military intelligence officer. Possibly still detained at Kopassus, Baucau.
3.1.24	Afonso Martins, 32	Luirai village, Aileu	16/3/98	Aileu	Kodim Police	Arbitrary detention Torture	Arrested for possession of knives.
3.1.25	Custodio (no surname), 23	Not known	18/3/98	Unknown	SGI (Special Intelligence Unit)	Arbitrary detention Torture	Suspected of publishing photographs of Falintil guerrillas.
3.1.26	Martinho da Costa, 23	Aurora hamlet, Caibada village, Baucau	19/3/98	Baucau	Kopassus Rajawali battalion Police, Team Saka	Arbitrary detention Torture	Suspected of being a Falintil guerrilla.
3.1.27	Domingos Guterres, 30	Leorema village, Ermera	19/3/98	Ermera	Rajawali battalion BTT 144	Arbitrary detention Torture	No reason for his arrest and torture.

3.1.28	Teodoro Goncalves	Audian, Dili	27/3/98	Dili	Indonesian military	Arbitrary detention Tortured	Arrested as he was leaving UNTIM in Dili. Tortured during interrogation, including being burned with cigarettes. Released 24 hours later.
3.1.29	Inocencio Ximenes, 26	Sabraca Laran hamlet, RT 26/RW 06, Becora, Dili	15/4/98	Dili	BTT (territorial battalion)	Arbitrary detention Torture	Suspected of having contacts with Falintil guerrillas. He was also a youth leader.
3.1.30	Samuel (no surname), 26	Coiliate Leolilo village, Ermera district	12/6/98	Ermera	Indonesian military	Arbitrary detention Torture	Suspected of aiding members Falintil guerrillas. Subjected to severe torture, including being tied up, beaten and having boiling water poured on his upper body. Suffered sever burns to his body and was confined to his village where he received no medical treatment.
3.1.31	Palmira Piedade	Trilolo village, Baucau	16/6/98	Bacucau	Aleixo his wife, and Domingos, all from Team Saka / KODIM 1628, Baucau	Torture	Tortured as she was suspected of being an informant who sent information overseas. The allegations were denied.
3.2.3	Guirvonio da Costa, 26	Not known	14/4/98	Baucau	Kopassus Rajawali battalion BTT	Cruel, inhuman or degrading treatment	Suspected of being an agent for the Falintil guerrillas. Was pursued and shot by the military.
3.2.4	David (no surname), 22 Virgilio (no surname), 21 Apolinario (no surname)20	Becora vilage, Dili	14/4/98	Dili	Indonesian military	Cruel, inhuman or degrading treatment	Suspected of organizing clandestine political activities. Was shot by Indonesian security personnel.
3.2.5	Joao Maia, 27	Aimanaru hamlet, Raerobo village, Atabae sub-district	30/4/98	Bobonaro	BTT 144 SGI	Cruel, inhuman or degrading tr.	Was shot for no reason but managed to escape from the attack.

3.2.6	Manuel da Costa, 25	Wairo, Macadae hamlet, Bucoli village, Baucau	10/5/98	Baucau	BTT (territorial battalion)	Cruel, inhuman or degrading treatment	Suspected of being a Falintil guerrilla. Was shot three times while on his way home.
3.2.7	Lourenco Carlos Belo	Bahamori, hamlet, Gariuai village, Baucau	2/6/98	Baucau	Kopassus Rajawali battalion	Cruel, inhuman or degrading treatment	Suspected of supporting Falintil guerrillas. Was shot while working at his home and was brought to Baucau hospital for treatment.
3.4.3	Clara Gorumali, 22 Guilhermina Sosmali, 14 Delfina Santina, 16	Meligo village, Cailaco sub-district, Maliana	1/2/98	Bobonaro	Rajawali battalion	Attempted rape	Soldiers attempted to rape 3 women in their home but were prevented by the intervention of the Commanding Officer. The women were suspected of harbouring Falintil guerrillas.
3.4.4	Ida (no surname), 15	Baboe Craik village, Atsabe	10/4/98	Ermera	Principal of government school	Rape	Raped by a government school principal at the Inti Jaya primary school, after attending mass.
3.4.5	Filomena da Costa, 24	Baucau	6/5/98	Baucau	SGI (Special Intelligence Unit)	Arbitrary detention Rape	Raped by a member of SGI at night while in detention at Kopassus headquarters Baucau, Rumah Merah.
6.1	Afonso Tasi Loe, 19 Leonito dos Santos, 21 Faustino Reci Bere, 23 Januario Mota, 26 Celestino Mali Bere, 23 Henrique Santana, 30 Armindo Tairu, 26 Almeida Santana, 28 Celestino Sari Beto, 28 Domingos Leki Mau, 19 Angelina Sose, 25 Rudolfo dos Santos, 24 Agapito Bere, 22 Aulora Abu, 26 Adao (no surname), 26 Delfin Berkau	Meligo village, Cailaco sub-district,	00/2/98	Bobonaro	SGI Rajawali battalion BTT (Territorial battalion) Team Halilintar	Persecution	Persecuted in relation to four East Timorese who were killed in Atabae in early January. Leonito dos Santos and Adao were also suspected of harbouring Falintil guerrillas.

6.2	Gaudencio Lopes, 24 Anselmo Xavier, 23 Norberto da Costa, 27 Osorio dos Santos, 20 Delio da Costa, 22 Eugenio Viana, 21	Pairara village, Moro sub-district	16/2/98	Lautem	Kopassus Team Alfa, Lautem Koramil the police	Persecution	Persecuted because they made a FRETILIN flag.
6.3	Fernando Savio, 19 Eko Ximenes, 15	Pemukiman Iradarate, Iliomar II village, Iliomar sub-distr.	16/2/98	Lautem	Kopassus Rajawali battalion BTT 642 Team Alfa, SGI	Persecution	Suspected of being agents for Falintil
6.4	Augusto Rosalino, 18 Paulo Borges, 23 Zakarias Sama Lelo, 28 Anselmo Leto Laka, 25	Sub-district of Maliana	00/2/98	Bobonaro	SGI, BTT Rajawali battalion Team Halilintar	Persecution	Suspected of attending a meeting with Falintil guerrillas.
6.5	Alberto da Costa F., 26 Romaldo dos Santos, 29 Leonito (no surname), 30 Jose Antonio, 29 Matias da Conceicao, 27 Adolfo da Conceicao, 27	Leorema hamlet, Leorema village, Bazartete Sub-District, Ermera	21/3/98	Ermera	SGI (Special Intelligence Unit)	Persecution	Suspected of hiding guns and ammunition at their houses for Falintil.
6.6	Carlos Maria da Liu, 20	Soka village, Laga Sub-district	11/5/98	Baucau	SGI Rajawali battalion	Persecution	Suspected of being a clandestine member.
6.7	Joao Talimeta, 24	Aidabalete village, Atabae sub-district	5/6/98	Bobonaro	Team Halilintar lead by Joao Tavares and SGI	Persecution	Suspected of being involved in the setting fire of an election polling booth.
6.8	Gertrudes Maria Borges, 35	Not known	9/6/98	Dili	Police, BTT 144, Santa Cruz village head Jose Agusto	Persecution	Wanted by the Indonesian military. They searched her house to arrest her but could not find her.